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TAGS: [PGOV](#) [KJUS](#) [PK](#)
SUBJECT: NAWAZ INELIGIBLE TO CONTEST ELECTIONS

Derived from: DSCG 05-1, D

¶1. (C) Summary: In a surprise verdict, the Lahore High Court ruled on June 23 that Pakistan Muslim League - Nawaz (PML-N) leader and former Prime Minister Nawaz Sharif was ineligible to contest the June 26 National Assembly by-elections. In the same ruling, his brother Punjab Chief Minister and PML-N President Shahbaz Sharif was allowed to retain his provincial seat while deliberations on his eligibility continued within an election tribunal. The PML-N has strongly condemned the verdict, claiming that the court was pressured by both President Musharraf and Pakistan Peoples Party Co-Chairman Zardari to invalidate Nawaz's candidacy. In a late night session on June 23, PML-N leaders decided not/not to appeal the High Court's ruling to the Federal Supreme Court, as doing so could be interpreted as recognition of the judiciary installed by President Musharraf on November 3, 2007. Instead, the party intends to engage in street protests throughout the Punjab scheduled to begin on the evening of June 24. Given the party's and Nawaz Sharif's increasing popularity within the Punjab, such protests could be sizeable in key urban areas. PML-N leaders told post that the protest strategy would be designed to pressure its coalition partner the PPP to use its influence with the sitting Chief Justice of Pakistan to encourage a suo moto judgement overturning the Lahore High Court's verdict. End Summary.

¶2. (SBU) On June 23, a reconstituted bench of the Lahore High Court issued a verdict declaring PML-N leader Nawaz Sharif ineligible to contest a National Assembly seat in the June 26 by-elections. The court verdict concluded that Nawaz was ineligible due to a 2000 conviction on terrorism charges, stemming from his attempts to prevent the landing of then-Chief of Army Staff Musharraf's commercial flight to Pakistan during the 1999 overthrow of his government. The court found that Nawaz's claim that the convictions had been pardoned by then-President Rafique Tarar at the time of Nawaz's departure for exile in Saudi Arabia lacked an evidentiary basis. The refusal of Nawaz to present evidence at the Lahore High Court, part of his refusal to recognize the judiciary installed by President Musharraf on November 3, 2007, appeared to play a significant role in the bench's verdict. The court found that briefs arguing in favor of Nawaz's position filed by attorneys acting as "friends of the court" lacked sufficient evidence to invalidate Nawaz's criminal conviction.

¶3. (SBU) The same Lahore High Court bench refused to take similar action to invalidate PML-N President Shahbaz Sharif's uncontested elections to two provincial assembly seats earlier in June, which cleared the way for him to assume the office of the Punjab Chief Minister. The court determined that the challenge to Shahbaz's eligibility, stemming from his participation in the storming of the Supreme Court in 1999, required further evidentiary review by an Election Tribunal to determine whether he had in fact insulted the nation's judiciary -- a disqualification for elected office under the Pakistani Constitution. Like his brother, Shahbaz had refused to present evidence at the Lahore High Court, but the bench found that in

his case, there was no clearly disqualifying act presented by the petitioners. The court's verdict specifically permitted Shahbaz to continue as Chief Minister while the Election Tribunal proceedings -- which can often take years to complete -- go forward.

¶4. (SBU) PML-N leaders publicly condemned the Lahore High Court's verdict. They claimed that the speed with which the reconstituted bench deliberated on the case (less than 24 hours) was evidence that President Musharraf and/or PPP Co-Chairman Zardari had influenced the court. Public statements attempted to portray this "injustice" as direct evidence that judicial independence could only be ensured by removing all those judges who took oath following the November 3, 2007 state of emergency and the restoration of the pre-November 3 judiciary. The "weak" reaction of its coalition partner, the PPP, to Nawaz's disqualification was condemned and in some circles taken as further evidence of Zardari's involvement in the verdict.

¶5. (C) Party sources who attended the late night June 23 leadership meeting in Raiwind confirmed press reports that Nawaz Sharif would not/not appeal the verdict to the federal Supreme Court and that Shahbaz would not take part in the proceedings of the Election Tribunal. Despite strong protests from key leaders, including Ahsan Iqbal and Ishaq Dar, Nawaz reportedly took this firm stance as part of his refusal to compromise on any recognition of the legitimacy of judges who took oath following the November 3 state of emergency. Nawaz ostensibly determined that his refusal to appeal would further strengthen his populist, anti-establishment political credentials, even if it denied him a seat in parliament. Sources reported that the same logic was at play in Shahbaz's decision not/not to participate in the Election Tribunal. However, they noted that as a practical matter, Election Tribunals rarely heard cases in a timely fashion and any decision would likely be years in the making. They speculated that the establishment intended to use the threat posed by the Election Tribunal case as a way to influence Shahbaz's behavior during his tenure as Chief Minister.

¶6. (C) PML-N sources further reported that the party intends to rely on "street power" to protest and hopefully invalidate the High Court decision. The party intended to begin a series of protests across the Punjab designed to shut down key thoroughfares in urban and rural areas, beginning on the evening of June 24. To date, only small, sporadic, largely non-violent protests have occurred in a handful of urban locations. PML-N leaders reportedly believe that such protests may (1) force the PPP to issue a strong statement of condemnation against the verdict, (2) increase pressure on the PPP to restore the pre-November 3 judiciary through an act of parliament, and (3) encourage the PPP to intervene with the current Chief Justice to obtain a suo moto invalidation of the Lahore High Court's actions. Note: Post contacts surmise that the current Supreme Court, including Chief Justice Dogar, is feeling under increasing pressure to improve its public image in order to retain their seats following judicial restoration. Suo moto action that allowed Nawaz Sharif to seek election to parliament would undoubtedly serve this goal. End Note.

¶7. (C) Comment: The irony is that Nawaz probably is ineligible to contest a parliamentary seat under the Pakistani constitution due to his criminal conviction. His exile in Saudi Arabia was a result of a commutation of his sentence not a pardon, meaning that the Lahore High Court's verdict is probably legally correct and it is Nawaz, who is looking for a politicized decision from the court. Such ironies, however, will have little sway in the public perception, as Nawaz's politics of defiance on the judicial restoration issue continue to play well in the public imagination. His stance is generally viewed as principled and selfless in contrast to PPP leaders who are increasingly being portrayed as playing politics as usual. Nawaz's refusal to seek injunctive relief from the current Supreme Court, which could well overturn the High Court's verdict, will likely reinforce this political image. Street protests, particularly if active PML-N support and financing occur, may well materialize in the province. These are, however, likely to remain orderly. The largest will probably occur in areas of strongest PML-N support, particularly the Old City areas of Lahore and Faisalabad. In

our view, such protests are unlikely to force the current courts' hands on the issue of Nawaz's eligibility, but they will increase pressure on the PPP to follow the PML-N's roadmap for restoration of the November 3 judiciary, particularly if the PML-N continues its vocal criticism of the PPP's lukewarm reaction to the verdict. End Comment.

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